

AMENDED IN SENATE APRIL 18, 2012

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1099

Introduced by Assembly Member Bonnie Lowenthal

February 18, 2011

~~An act to amend Section 4755 of the Vehicle Code, relating to vehicles.~~ *An act to amend Sections 7235 and 7236 of the Revenue and Taxation Code, and to amend Sections 34501.12, 34505.6, 34515, 34601, 34622, 34623, and 40000.22 of, and to repeal Sections 34505.5 and 34606 of, the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1099, as amended, Bonnie Lowenthal. ~~Commercial motor vehicles: emissions standards.~~ *Vehicles: motor carriers: inspection of terminals program.*

Existing law establishes the Biennial Inspection of Terminals Program (BIT) to ensure the safe operation of certain vehicles by a motor carrier through the inspection of these vehicles at the motor carrier's terminal by the Department of the California Highway Patrol. Existing law defines a motor carrier, for this purpose, as the registered owner of, and in some cases the lessee or person exclusively authorizing and directing the operation of, specified vehicles. Existing law requires, within 30 days of establishing a terminal, a motor carrier to schedule an inspection by submitting to the department an application for a

terminal inspection accompanied by the payment of a fee the amount of which is based on the number of vehicles in a terminal or the "terminal fleet size." Existing law requires the department to inspect every terminal at least once every 25 months and defines a terminal as the location or locations designated by the motor carrier where subject vehicles and specific records are available for inspection.

This bill would revise and recast these provisions as the Basic Inspection of Terminals (BIT) program. The bill would define motor carrier for this purpose as the registered owner, lessee, licensee, or bailee of specified vehicles. The bill would make it unlawful to operate a new terminal unless an inspection is conducted within the first 18 months of operation. The bill would instead authorize the department to conduct terminal inspections at any time. The bill would require the department, on or before January 1, 2014, to implement a performance-based truck terminal inspection priority system similar to that used by the Federal Motor Carrier Safety Administration that would require the department to place an inspection priority on motor carrier terminals never previously inspected by the department. Nonpriority terminals would not be required to be inspected less than 4 years since their last inspection.

The bill would require a motor carrier to make vehicles and records available for inspection upon request by the department and to pay a carrier inspection fee, the amount to be based on the size of the motor carrier's fleet. The bill would impose a penalty for failure to pay the fee. The bill would make other technical and conforming changes to the BIT program.

~~Existing law requires the Department of Motor Vehicles to refuse registration, or renewal or transfer of registration, for any commercial motor vehicle with a declared gross or combined gross vehicle weight that exceeds 10,000 pounds if the owner or operator of the motor vehicle at the time of the application has been cited for a violation of specified air quality standards pertaining to that vehicle or regulations adopted by the State Air Resources Board (board), until the violation has been cleared, as determined by that board.~~

~~This bill would require the department to refuse registration for any commercial motor vehicle subject to registration that is of a 1996 or older model year with a gross vehicle weight rating of more than 26,000 pounds, except for any construction truck that is subject to an extension pursuant regulations adopted by the board as determined by the department.~~

~~The bill would also exempt from this requirement a commercial motor vehicle registered in California prior to January 1, 2012, if the commercial motor vehicle is continuously registered, as specified, or is certified nonoperational after January 1, 2012.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7235 of the Revenue and Taxation Code*
2 *is amended to read:*

3 7235. The Safety Fee and Carrier Inspection Fee imposed by
4 this chapter shall be paid by all motor carriers of property, as
5 defined in Section 34601 of the Vehicle Code.

6 *SEC. 2. Section 7236 of the Revenue and Taxation Code is*
7 *amended to read:*

8 7236. (a) Uniform business license tax fee payments collected
9 by the Department of Motor Vehicles pursuant to Section 7232
10 shall be deposited in the State Treasury to the credit of the General
11 Fund. All other funds collected by the Department of Motor
12 Vehicles pursuant to Section 7232 shall be deposited in the State
13 Treasury to the credit of the Motor Vehicle Account in the State
14 Transportation Fund. The following fees shall be paid to the
15 department:

16 (1) For-hire motor carriers of property shall pay, according to
17 the following schedule in subdivision (c), fees indicated as the
18 safety fee, carrier inspection fee, and uniform business license tax
19 fee, based on the size of their motor vehicle fleet.

20 (2) (A) Private carriers of property with a fleet size of 10 or
21 less motor vehicles shall pay a safety fee of thirty-five dollars
22 (\$35). Private carriers of property with a fleet size of 11 or more
23 motor vehicles shall pay, according to the following schedule in
24 subdivision (c), fees indicated as the safety fee, based on the size
25 of their motor vehicle fleet. Any carrier that does not pay a uniform
26 business license tax fee shall not operate as a for-hire motor carrier.

27 (B) Private carriers of property shall pay, according to the
28 schedule of fees in subdivision (c), fees indicated as the carrier
29 inspection fee based on the size of the motor vehicle fleet.

30 (b) "Fleet size" as used in this section, does not include vehicles
31 described in subdivision (e) of Section 34500.

(3)
 (c) (1) A seasonal permit may be issued to a motor carrier of property upon payment of fees indicated as the safety fee and one-twelfth of the fee indicated as the uniform business license tax fee, rounded to the next dollar, for each month the permit is valid. The original seasonal permit shall be valid for a period of not less than six months, and may be renewed upon payment of a five-dollar (\$5) fee, and one-twelfth of the fee indicated as a uniform business license tax fee for each additional month of operation.

Fleet Size—Commercial		Uniform Business License Tax	Carrier Inspection Fee
Motor Vehicles Fee	Safety Fee		
1	\$60	\$60	\$130
2-4	\$75	\$125	\$152
5-10	\$200	\$275	\$252
11-20	\$240	\$470	\$573
21-35	\$325	\$650	\$743
36-50	\$430	\$880	\$961
51-100	\$535	\$1,075	\$1,112
101-200	\$635	\$1,300	\$1,463
201-500	\$730	\$1,510	\$1,512
501-1,000	\$830	\$1,715	\$1,600
1,001-2,000	\$930	\$1,900	\$1,800
2,001-over	\$1,030	\$2,000	\$2,114

~~Notwithstanding~~

(2) ~~Notwithstanding the above fee schedule in paragraph (1), except for the carrier inspection fee,~~ motor carriers of property with 10 or fewer trucks shall not pay fees higher than they would have paid under the fee structure in place as of January 1, 1996. Notwithstanding Section 34606 of the Vehicle Code, fees for these carriers shall not be subject to an increase by the Department of Motor Vehicles.

(d) Failure to pay a fee required by this section, within the appropriate timeframe, shall result in additional delinquent fees as follows:

(1) For a delinquency period of more than 30 days, the penalty is 60 percent of the required fee.

1 (2) For a delinquency period of one to two years, the penalty
2 is 80 percent of the required fee.

3 (3) For a delinquency period of more than two years, the penalty
4 is 160 percent of the required fee.

5 (b)

6 (e) Funds derived from safety fees shall remain in the Motor
7 Vehicle Account in the State Transportation Fund and shall be
8 available for appropriation by the Legislature to cover costs
9 incurred by the Department of Motor Vehicles and the Department
10 of the California Highway Patrol in regulating *and inspecting*
11 motor carriers of property pursuant to *Division 14.8 (commencing*
12 *with Section 34500) and Division 14.85 (commencing with Section*
13 *34600) of the Vehicle Code.*

14 (e)

15 (f) It is the intent of the Legislature that the fee schedule
16 established in subdivision-(a) (c) shall not discriminate against
17 small fleet or individual vehicle operators or result in a
18 disproportionate share of those fees being assigned to small fleet
19 or individual vehicle operators.

20 *SEC. 3. Section 34501.12 of the Vehicle Code is amended to*
21 *read:*

22 34501.12. (a) ~~Notwithstanding Section 408, as As~~ used in this
23 section and ~~Sections 34505.5 and Section 34505.6,~~ “motor carrier”
24 means the registered owner, *or a lessee, licensee, or bailee, of a*
25 *any vehicle described in subdivision (a), (b), (e), (f), or (g), (j), or*
26 *(k) of Section 34500, except in the following circumstances: who*
27 *operates or directs the operation of that vehicle.*

28 (1) ~~The registered owner leases the vehicle to another person~~
29 ~~for a term of more than four months. If the lease is for more than~~
30 ~~four months, the lessee is the motor carrier.~~

31 (2) ~~The registered owner operates the vehicle exclusively under~~
32 ~~the authority and direction of another person. If the operation is~~
33 ~~exclusively under the authority and direction of another person,~~
34 ~~that other person may assume the responsibilities as the motor~~
35 ~~carrier. If not so assumed, the registered owner is the motor carrier.~~
36 ~~A person who assumes the motor carrier responsibilities of another~~
37 ~~pursuant to subdivision (b) shall provide to that other person whose~~
38 ~~motor carrier responsibility is so assumed, a completed copy of a~~
39 ~~departmental form documenting that assumption, stating the period~~
40 ~~for which responsibility is assumed, and signed by an agent of the~~

1 assuming person. A legible copy shall be carried in each vehicle
2 or combination of vehicles operated on the highway during the
3 period for which responsibility is assumed. That copy shall be
4 presented upon request by an authorized employee of the
5 department. The original completed departmental form
6 documenting the assumption shall be provided to the department
7 within 30 days of the assumption. If the assumption of
8 responsibility is terminated, the person who had assumed
9 responsibility shall so notify the department in writing within 30
10 days of the termination.

11 (b) (1) A motor carrier may combine two or more terminals
12 that are not subject to an unsatisfactory compliance rating within
13 the last 36 months for purposes of the inspection required by
14 subdivision (d), subject to all of the following conditions:

15 (A) The carrier identifies to the department, in writing, each
16 terminal proposed to be included in the combination of terminals
17 for purposes of this subdivision prior to an inspection of the
18 designated terminal pursuant to subdivision (d).

19 (B) The carrier provides the department, prior to the inspection
20 of the designated terminal pursuant to subdivision (d), a written
21 listing of all its vehicles of a type subject to subdivision (a), (b),
22 (e), (f), or (g) of Section 34500 that are based at each of the
23 terminals combined for purposes of this subdivision. The listing
24 shall specify the number of vehicles of each type at each terminal.

25 (C) The carrier provides to the department at the designated
26 terminal during the inspection all maintenance records and driver
27 records and a representative sample of vehicles based at each of
28 the terminals included within the combination of terminals.

29 (2) If the carrier fails to provide the maintenance records, driver
30 records, and representative sample of vehicles pursuant to
31 subparagraph (C) of paragraph (1), the department shall assign the
32 carrier an unsatisfactory terminal rating and require a reinspection
33 to be conducted pursuant to subdivision (h).

34 (3) For purposes of this subdivision, the following terms have
35 the following meanings:

36 (A) "Driver records" includes pull notice system records, driver
37 proficiency records, and driver timekeeping records.

38 (B) "Maintenance records" includes all required maintenance,
39 lubrication, and repair records and drivers' daily vehicle condition
40 reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(e) ~~Each motor carrier who, in this state, directs the operation of, or maintains, a~~

(b) *It is unlawful for a motor carrier to operate any vehicle of a type described in subdivision (a) ~~shall designate one or more~~ without identifying to the department all terminals, as defined in Section 34515, in this state where vehicles ~~can~~ may be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection. Motor carriers shall make vehicles and records available for inspection upon request by an authorized representative of the department. If a motor carrier fails to provide vehicles and records, an unsatisfactory terminal rating shall be issued by the department.*

(1) *The number of vehicles that will be selected for inspection by the department at a terminal shall be based on terminal fleet size and applied separately to a terminal fleet of power units and trailers, according to the following schedule:*

Fleet Size	Vehicles
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(2) *The lessor of any vehicle described in subdivision (a) shall make vehicles available for inspection upon request of an authorized representative of the department in the course of inspecting the terminal of the lessee. This section does not affect whether the lessor or driver provided by the lessor is an employee of the authorized carrier lessee and compliance with this section and its attendant administrative requirements does not imply an employee-employer relationship.*

~~(d)~~

~~(c) (1) The department shall~~ *may inspect, at least every 25 months, every any terminal, as defined in Section 34515, of a motor carrier who, at any time, operates a any vehicle described in subdivision (a).*

(2) On or before January 1, 2014, the department shall adopt regulations establishing a performance-based truck terminal inspection priority system. This may include systems or methodologies used by the Federal Motor Carrier Safety Administration, and the department may also incorporate other safety-related data in this system. The department shall place an inspection priority on motor carrier terminals never previously inspected by the department and those terminals operating vehicles listed in subdivision (g) of Section 34500. Nonpriority terminals are not required to be inspected less than four years since last inspected.

~~(3) As used in this section and in Sections 34505.5 and Section 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck or any combination never operated in commercial use, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004~~ *Notwithstanding Section 5014.1, vehicles that display special identification plates in accordance with Section 5011, historical vehicles, as described in Section 5004, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or*

operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and Section 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee contained in paragraph (2), for each terminal the motor carrier operates. This fee shall be submitted within 30 days of establishing a terminal. All fees submitted under paragraph (2) are nonrefundable.

(2) (A) The fee for each terminal is set forth in the following table:

Terminal fleet size	Required fee per terminal
1	\$ 270
2	\$ 375
3 to 8	\$ 510
9 to 15	\$ 615
16 to 25	\$ 800
26 to 50	\$1,040
51 to 90	\$1,165
91 or more	\$1,870

(B) In addition to the fee specified in subparagraph (A), the motor carrier shall submit an additional fee of three hundred fifty dollars (\$350) for each of its terminals not previously inspected under the section.

(3) Except as provided in paragraph (5), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(4) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation

1 Fund. An amount equal to the fees collected shall be available for
2 appropriation by the Legislature from the Motor Vehicle Account
3 to the department for the purpose of conducting truck terminal
4 inspections and for the additional roadside safety inspections
5 required by Section 34514.

6 (5) ~~To avoid the scheduling of a renewal terminal inspection~~
7 ~~pursuant to this section during a carrier's seasonal peak business~~
8 ~~periods, the current inspection term of a terminal that has paid all~~
9 ~~required fees and has been rated satisfactory in its last inspection~~
10 ~~may be reduced by not more than nine months if a written request~~
11 ~~is submitted by the carrier to the department at least four months~~
12 ~~prior to the desired inspection month, or at the time of payment of~~
13 ~~renewal inspection fees in compliance with paragraph (3);~~
14 ~~whichever date is earlier. A motor carrier may request this~~
15 ~~adjustment of the inspection term during any inspection cycle. A~~
16 ~~request made pursuant to this paragraph shall not result in a fee~~
17 ~~proration and does not relieve the carrier from the requirements~~
18 ~~of paragraph (3).~~

19 (6) ~~Failure to pay a fee required by this section, within the~~
20 ~~appropriate timeframe, shall result in additional delinquent fees~~
21 ~~as follows:~~

22 (A) ~~For a delinquency period of more than 30 days, the penalty~~
23 ~~is 60 percent of the required fee.~~

24 (B) ~~For a delinquency period of one to two years, the penalty~~
25 ~~is 80 percent of the required fee.~~

26 (C) ~~For a delinquency period of more than two years, the penalty~~
27 ~~is 160 percent of the required fee.~~

28 (7) ~~Federal, state, and local public entities are exempt from the~~
29 ~~fee requirement of this section.~~

30 (f) ~~It is unlawful for a motor carrier to operate a vehicle subject~~
31 ~~to this section without having submitted an inspection application~~
32 ~~and the required fees to the department as required by subdivision~~
33 ~~(e) or (h).~~

34 (g)

35 (d) (1) It is unlawful for a motor carrier to operate a vehicle
36 *from a new terminal, which is* subject to this section ~~after~~
37 ~~submitting an inspection application to the department, without~~
38 ~~the, unless an inspection described in subdivision (d) having been~~
39 ~~is performed on the terminal, and a safety compliance report having~~
40 ~~been is issued to the motor carrier within the 25-month inspection~~

1 ~~period or within 60 days immediately preceding the inspection~~
2 ~~period regarding the terminal, within the first 18 months of~~
3 ~~operating a vehicle subject to this section from the new terminal.~~
4 *It is the responsibility of the motor carrier to schedule with the*
5 *department the inspection of any new terminal within 90 days of*
6 *operating vehicles from that new terminal.*

7 (2) It is unlawful for a motor carrier to contract or subcontract
8 with, or otherwise engage the services of, another motor carrier,
9 subject to this section, unless the contracted motor carrier has
10 complied with ~~this section paragraph (1)~~. A motor carrier shall
11 not contract or subcontract with, or otherwise engage the services
12 of, another motor carrier until the contracted motor carrier provides
13 certification of compliance with ~~this section paragraph (1)~~. This
14 certification shall be completed in writing by the contracted motor
15 carrier. The certification, or a copy ~~thereof of the certification~~,
16 shall be maintained by each involved party for the duration of the
17 contract or the period of service plus two years, and shall be
18 presented for inspection immediately upon the request of an
19 authorized employee of the department.

20 ~~(h)~~

21 (e) (1) An inspected terminal that receives an unsatisfactory
22 compliance rating shall be reinspected *by the department* within
23 120 days after the issuance of the unsatisfactory compliance rating.

24 ~~(2) A terminal's first required reinspection under this subdivision~~
25 ~~shall be without charge unless one or more of the following is~~
26 ~~established:~~

27 ~~(A) The motor carrier's operation presented an imminent danger~~
28 ~~to public safety.~~

29 ~~(B) The motor carrier was not in compliance with the~~
30 ~~requirement to enroll all drivers in the pull notice program pursuant~~
31 ~~to Section 1808.1.~~

32 ~~(C) The motor carrier failed to provide all required records and~~
33 ~~vehicles for a consolidated inspection pursuant to subdivision (b).~~

34 ~~(3) If the unsatisfactory rating was assigned for any of the~~
35 ~~reasons set forth in paragraph (2), the carrier shall submit the~~
36 ~~required fee as provided in paragraph (4).~~

37 ~~(4) Applications for reinspection pursuant to paragraph (3) or~~
38 ~~for second and subsequent consecutive reinspections under this~~
39 ~~subdivision shall be accompanied by the fee specified in paragraph~~
40 ~~(2) of subdivision (e) and shall be filed within 60 days of issuance~~

1 of the unsatisfactory compliance rating. The reinspection fee is
2 nonrefundable.

3 (5)

4 (2) When a motor carrier's Motor Carrier of Property Permit or
5 Public Utilities Commission operating authority is suspended as
6 a result of an unsatisfactory compliance rating, the department
7 shall not conduct a reinspection for permit or authority
8 reinstatement until requested to do so by the Department of Motor
9 Vehicles or the Public Utilities Commission, as appropriate.

10 (i) It is the intent of the Legislature that the department make
11 its best efforts to inspect terminals within the resources provided.
12 In the interest of the state, the Commissioner of the California
13 Highway Patrol may extend for a period, not to exceed six months,
14 the inspection terms beginning prior to July 1, 1990.

15 (j) Except as provided in paragraph (5), to encourage motor
16 carriers to attain continuous satisfactory compliance ratings, the
17 department may establish and implement an incentive program
18 consisting of the following:

19 (1) After the second consecutive satisfactory compliance rating
20 assigned to a motor carrier terminal as a result of an inspection
21 conducted pursuant to subdivision (d), and after each consecutive
22 satisfactory compliance rating thereafter, an appropriate certificate,
23 denoting the number of consecutive satisfactory ratings, shall be
24 awarded to the terminal, unless the terminal has received an
25 unsatisfactory compliance rating as a result of an inspection
26 conducted in the interim between the consecutive inspections
27 conducted under subdivision (d), or the motor carrier is rated
28 unsatisfactory by the department following a controlled substances
29 and alcohol testing program inspection. The certificate authorized
30 under this paragraph shall not be awarded for performance in the
31 administrative review authorized under paragraph (2). However,
32 the certificate shall include a reference to any administrative
33 reviews conducted during the period of consecutive satisfactory
34 compliance ratings.

35 (2) Unless the department's evaluation of the motor carrier's
36 safety record indicates a declining level of compliance, a terminal
37 that has attained two consecutive satisfactory compliance ratings
38 assigned following inspections conducted pursuant to subdivision
39 (d) is eligible for an administrative review in lieu of the next
40 required inspection, unless the terminal has received an

1 unsatisfactory compliance rating as a result of an inspection
2 conducted in the interim between the consecutive inspections
3 conducted under subdivision (d). An administrative review shall
4 consist of all of the following:

5 (A) A signed request by a terminal management representative
6 requesting the administrative review in lieu of the required
7 inspection containing a promise to continue to maintain a
8 satisfactory level of compliance for the next 25-month inspection
9 term.

10 (B) A review with a terminal management representative of the
11 carrier's record as contained in the department's files. If a terminal
12 has been authorized a second consecutive administrative review,
13 the review required under this subparagraph is optional, and may
14 be omitted at the carrier's request.

15 (C) Absent any cogent reasons to the contrary, upon completion
16 of the requirements of subparagraphs (A) and (B), the safety
17 compliance rating assigned during the last required inspection shall
18 be extended for 25 months.

19 (3) Not more than two administrative reviews may be conducted
20 consecutively. At the completion of the 25-month inspection term
21 following a second administrative review, a terminal inspection
22 shall be conducted pursuant to subdivision (d). If this inspection
23 results in a satisfactory compliance rating, the terminal shall again
24 be eligible for an administrative review in lieu of the next required
25 inspection. If the succession of satisfactory ratings is interrupted
26 by a rating of other than satisfactory, irrespective of the reason for
27 the inspection, the terminal shall again attain two consecutive
28 satisfactory ratings to become eligible for an administrative review.

29 (4) As a condition for receiving the administrative reviews
30 authorized under this subdivision in lieu of inspections, and in
31 order to ensure that compliance levels remain satisfactory, the
32 motor carrier shall agree to accept random, unannounced
33 inspections by the department.

34 (5) Notwithstanding paragraphs (1) to (4), inclusive, a motor
35 carrier of hazardous materials shall not be granted administrative
36 review pursuant to this subdivision in lieu of a terminal inspection
37 pursuant to subdivision (d) at any terminal from which hazardous
38 materials carrying vehicles identified by paragraph (3) of
39 subdivision (d) are operated.

1 (f) A motor carrier issued an unsatisfactory terminal rating may
2 request a review of the rating within five business days of receipt
3 of the notification of the rating. The department shall conduct and
4 evaluate the review within 10 business days of the request.

5 ~~(k)~~

6 (g) This section shall be known and may be cited as the ~~Biennial~~
7 ~~Basic Inspection of Terminals Program~~ program or BIT program.

8 SEC. 4. Section 34505.5 of the Vehicle Code is repealed.

9 ~~34505.5. (a) Every motor carrier operating any vehicle~~
10 ~~described in subdivision (a), (b), (c), (f), or (g) of Section 34500,~~
11 ~~except those vehicles exempted under Section 34501.12, shall, as~~
12 ~~a part of the systematic inspection, maintenance, and lubrication~~
13 ~~services required of all motor carriers, require the vehicle or~~
14 ~~vehicles for which it is responsible pursuant to Section 34501.12~~
15 ~~to be inspected at least every 90 days, or more often if necessary~~
16 ~~to ensure safe operation. Vehicles which are out of service for~~
17 ~~periods greater than 90 calendar days are not required to be~~
18 ~~inspected at 90-day intervals if they are inspected before operation~~
19 ~~on the highway. This inspection shall include, but not be limited~~
20 ~~to, all of the following:~~

21 ~~(1) Brake adjustment.~~

22 ~~(2) Brake system components and leaks.~~

23 ~~(3) Steering and suspension systems.~~

24 ~~(4) Tires and wheels.~~

25 ~~(5) Vehicle connecting devices.~~

26 ~~(b) No vehicle subject to this section shall be operated on the~~
27 ~~highway other than to a place of repair until all defects listed during~~
28 ~~the inspection conducted pursuant to subdivision (a) have been~~
29 ~~corrected and attested to by the signature of the motor carrier's~~
30 ~~authorized representative.~~

31 ~~(c) Records of inspections conducted pursuant to subdivision~~
32 ~~(a) shall be kept at the motor carrier's terminals, as designated in~~
33 ~~accordance with Section 34501.12. The records shall be retained~~
34 ~~by the motor carrier for two years, and shall be made available for~~
35 ~~inspection upon request by any authorized employee of the~~
36 ~~department. Each record shall include, but not be limited to, all of~~
37 ~~the following:~~

38 ~~(1) Identification of the vehicle, including make, model, license~~
39 ~~number, company vehicle number, or other means of positive~~
40 ~~identification.~~

1 ~~(2) Date and nature of each inspection and any repair performed.~~

2 ~~(3) Signature of the motor carrier's authorized representative~~
3 ~~attesting to the inspection and to the completion of all required~~
4 ~~repairs.~~

5 ~~(d) Printouts of inspection and maintenance records maintained~~
6 ~~in computer systems shall be accepted in lieu of signed inspection~~
7 ~~or repair records if the printouts include the information required~~
8 ~~in paragraphs (1) and (2) of subdivision (c).~~

9 ~~(e) Notwithstanding subdivisions (a) to (d), inclusive, records~~
10 ~~of 90-day inspections need not be retained in California for~~
11 ~~interstate vehicles which are not physically based in California.~~
12 ~~However, when these vehicles are present in California, they are~~
13 ~~subject to inspection by the department. If the inspection results~~
14 ~~indicate maintenance program deficiencies, the department may~~
15 ~~require the motor carrier to produce the maintenance records or~~
16 ~~copies of those records for inspection within 10 working days.~~

17 *SEC. 5. Section 34505.6 of the Vehicle Code is amended to*
18 *read:*

19 34505.6. (a) Upon determining that a motor carrier of property
20 who is operating any vehicle described in subdivision (a), (b), (e),
21 (f), (g), or (k) of Section 34500, or any motortruck of two or more
22 axles that is more than 10,000 pounds gross vehicle weight rating,
23 on a public highway, has done ~~any~~ *either* of the following, the
24 department shall recommend that the Department of Motor
25 Vehicles suspend or revoke the carrier's motor carrier permit, or
26 for interstate operators, the department shall recommend to the
27 Federal Motor Carrier Safety Administration that appropriate
28 administrative action be taken against the carrier:

29 (1) Failed to maintain any vehicle of a type described above in
30 a safe operating condition or to comply with the Vehicle Code or
31 with applicable regulations contained in Title 13 of the California
32 Code of Regulations, and, in the department's opinion, that failure
33 presents an imminent danger to public safety or constitutes a
34 consistent failure so as to justify a suspension or revocation of the
35 motor carrier's motor carrier permit.

36 (2) Failed to enroll all drivers in the pull-notice system as
37 required by Section 1808.1.

38 ~~(3) Failed to submit any application or pay any fee required by~~
39 ~~subdivision (e) or (h) of Section 34501.12 within the timeframes~~
40 ~~set forth in that section.~~

(b) Upon determining that a household goods carrier, or a household goods carrier transporting used office, store, or institution furniture and fixtures under its household goods carrier permit issued under Section 5137 of the Public Utilities Code, operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500 on a public highway has done ~~any~~ *either* of the following, the department shall recommend that the Public Utilities Commission deny, suspend, or revoke the carrier's operating authority, or for interstate operators, the department shall recommend to the Federal Motor Carrier Safety Administration that appropriate administrative action be taken against the carrier:

(1) Failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with applicable regulations contained in Title 13 of the California Code of Regulations, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes a consistent failure so as to justify a suspension, revocation, or denial of the motor carrier's operating authority.

(2) Failed to enroll all drivers in the pull-notice system as required by Section 1808.1.

~~(3) Failed to submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 within the timeframes set forth in that section.~~

(c) For purposes of this section, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the motor carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the carrier's enrollment by the Department of Motor Vehicles for the nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(d) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record or compliance with Section 1808.1 ~~or subdivision (e) or (h) of Section 34501.12~~ is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

1 (2) That the determination may result in a suspension,
2 revocation, or denial of the carrier's motor carrier permit by the
3 Department of Motor Vehicles, suspension, revocation, of the
4 motor carrier's operating authority by the California Public Utilities
5 Commission, or administrative action by the Federal Motor Carrier
6 Safety Administration.

7 (3) That the carrier may request a review of the determination
8 by the department within five days of its receipt of the notice
9 required under this subdivision. If a review pursuant to this
10 paragraph is requested by the carrier, the department shall conduct
11 and evaluate that review prior to transmitting any notification
12 pursuant to subdivision (a) or (b).

13 (e) Upon receipt of a written recommendation from the
14 department that a motor carrier permit or operating authority be
15 suspended, revoked, or denied, the Department of Motor Vehicles
16 or Public Utilities Commission, as appropriate, shall, pending a
17 hearing in the matter pursuant to Section 34623 or appropriate
18 Public Utilities Commission authority, suspend the motor carrier
19 permit or operating authority. The written recommendation shall
20 specifically indicate compliance with subdivision (d).

21 *SEC. 6. Section 34515 of the Vehicle Code is amended to read:*

22 34515. (a) As used in this division and in regulations adopted
23 pursuant to this division, "maintenance facility or terminal" means
24 any place or places where a vehicle of a type listed in Section
25 34500 is regularly garaged or maintained, or from which it is
26 operated or dispatched. "Maintenance facility or terminal" may
27 include a private business or residence.

28 (b) For the purpose of the inspections ~~required by~~ *conducted*
29 *pursuant to* Section 34501.12, "terminal" means the location or
30 locations in this state that are designated by a motor carrier, where
31 subject vehicles may be inspected by the department ~~pursuant to~~
32 ~~paragraph (4) of subdivision (a) of Section 34501,~~ and where
33 vehicle maintenance and inspection records and drivers' records
34 will be made available for inspection.

35 *SEC. 7. Section 34601 of the Vehicle Code is amended to read:*

36 34601. (a) As used in this division, "motor carrier of property"
37 means any person who operates any commercial motor vehicle as
38 defined in subdivision (c). "Motor carrier of property" does not
39 include a household goods carrier, as defined in Section 5109 of
40 the Public Utilities Code, a household goods carrier transporting

1 used office, store, and institution furniture and fixtures under its
2 household goods carrier permit pursuant to Section 5137 of the
3 Public Utilities Code, persons providing only transportation of
4 passengers, or a passenger stage corporation transporting baggage
5 and express upon a passenger vehicle incidental to the
6 transportation of passengers.

7 (b) As used in this division, “for-hire motor carrier of property”
8 means a motor carrier of property as defined in subdivision (a)
9 who transports property for compensation.

10 (c) (1) As used in this division, except as provided in paragraph
11 (2), a “commercial motor vehicle” means any self-propelled vehicle
12 listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500,
13 any motor truck of two or more axles that is more than 10,000
14 pounds gross vehicle weight rating, and any other motor vehicle
15 used to transport property for compensation.

16 (2) As used in this division, “commercial motor vehicle” does
17 not include any of the following:

18 (A) Vehicles identified in subdivision (f) of Section 34500, if
19 the gross vehicle weight rating of the towing vehicle is 10,000
20 pounds or less.

21 (B) Vehicles identified in subdivision (g) of Section 34500, if
22 the hazardous material transportation does not require the display
23 of placards under Section 27903, a license under Section 32000.5,
24 or a hazardous waste transporter registration under Section 25163
25 of the Health and Safety Code, and the vehicle is not operated in
26 commercial use.

27 (C) Vehicles operated by a household goods carrier, as defined
28 in Section 5109 of the Public Utilities Code, under the household
29 goods carrier permit pursuant to Section 5137 of that code.

30 (D) Vehicles operated by a household goods carrier to transport
31 used office, store, and institution furniture and fixtures under its
32 household goods carrier permit pursuant to Section 5137 of the
33 Public Utilities Code.

34 (E) Pickup trucks as defined in Section 471, if the conditions
35 in subparagraphs (A) and (B) are also met.

36 (F) Two-axle daily rental trucks with a gross vehicle weight
37 rating of less than 26,001 pounds, when operated in noncommercial
38 use.

39 (G) Motor trucks or two-axle truck tractors, with a gross vehicle
40 weight rating of less than 26,001 pounds, *operated singly, or when*

1 used ~~solely~~ to tow a camp trailer, trailer coach, fifth-wheel travel
2 trailer, *trailer designed to transport watercraft*, or utility trailer,
3 *never operated in commercial use*. Vehicle combinations described
4 in this subparagraph are not subject to Section 27900, 34501.12,
5 or 34507.5.

6 (d) For purposes of this chapter, “private carrier” means a motor
7 carrier of property, who transports only his or her own property,
8 including, but not limited to, the delivery of goods sold by that
9 carrier.

10 *SEC. 8. Section 34606 of the Vehicle Code is repealed.*

11 ~~34606. The fee schedule set forth in Section 7236 of the~~
12 ~~Revenue and Taxation Code shall be reviewed by the Department~~
13 ~~of Motor Vehicles and may be lowered should revenue exceed the~~
14 ~~costs of the Department of Motor Vehicles and the California~~
15 ~~Highway Patrol to administer and enforce the provisions of this~~
16 ~~division. The department shall also adjust the uniform business~~
17 ~~license tax fee by the amounts as are necessary to produce an~~
18 ~~annual revenue that shall not exceed the amount collected under~~
19 ~~Section 4304 of the Public Utilities Code as it existed on June 30,~~
20 ~~1996, for the period beginning on July 1, 1995, and ending on June~~
21 ~~30, 1996.~~

22 *SEC. 9. Section 34622 of the Vehicle Code is amended to read:*

23 34622. This chapter does not apply to any of the following:

24 (a) Vehicles *described in Section 5004 or 5011, and those that*
25 *are exempt from vehicle registration fees.*

26 (b) A household goods carrier transporting used office, store,
27 and institution furniture and fixtures under its household goods
28 carrier permit pursuant to Section 5137 of the Public Utilities Code.

29 *SEC. 10. Section 34623 of the Vehicle Code is amended to*
30 *read:*

31 34623. (a) The Department of the California Highway Patrol
32 has exclusive jurisdiction for the regulation of safety of operation
33 of motor carriers of property.

34 (b) The motor carrier permit of a motor carrier of property may
35 be suspended for failure to do ~~any~~ *either* of the following:

36 (1) Maintain any vehicle of the carrier in a safe operating
37 condition or to comply with this code or with applicable regulations
38 contained in Title 13 of the California Code of Regulations, if that
39 failure is either a consistent failure or presents an imminent danger
40 to public safety.

1 (2) Enroll all drivers in the ~~pull-notice~~ *pull-notice* system as
2 required by Section 1808.1.

3 ~~(3) Submit any application or pay any fee required by~~
4 ~~subdivision (e) or (h) of Section 34501.12 within the timeframes~~
5 ~~set forth in that section.~~

6 (c) The motor carrier permit of a motor carrier of property shall
7 be suspended for failure to either (1) comply with the requirements
8 of federal law described in subdivision (a) of Section 34520 of the
9 Vehicle Code, or (2) make copies of results and other records
10 available as required by subdivision (b) of that section. The
11 suspension shall be as follows:

12 (1) For a serious violation, which is a willful failure to perform
13 substance abuse testing in accordance with state or federal law:

14 (A) For a first offense, a mandatory five-day suspension.

15 (B) For a second offense within three years of a first offense, a
16 mandatory three-month suspension.

17 (C) For a third offense within three years of a first offense, a
18 mandatory one year suspension.

19 (2) For a nonserious violation, the time recommended to the
20 department by the Department of the California Highway Patrol.

21 (3) For the purposes of this subdivision, “willful failure” means
22 any of the following:

23 (A) An intentional and uncorrected failure to have a controlled
24 substances and alcohol testing program in place.

25 (B) An intentional and uncorrected failure to enroll an employed
26 driver into the controlled substances and alcohol testing program.

27 (C) A knowing use of a medically disqualified driver, including
28 the failure to remove the driver from safety-sensitive duties upon
29 notification of the medical disqualification.

30 (D) An attempt to conceal legal deficiencies in the motor
31 carrier’s controlled substances and alcohol testing program.

32 (d) The department, pending a hearing in the matter pursuant
33 to subdivision (f), may suspend a carrier’s permit.

34 (e) (1) A motor carrier whose motor carrier permit is suspended
35 pursuant to subdivision (b) may obtain a reinspection of its terminal
36 and vehicles by the Department of the California Highway Patrol
37 by submitting a written request for reinstatement to the department
38 and paying a reinstatement fee as required by Section 34623.5.

39 ~~(2) A motor carrier whose motor carrier permit is suspended~~
40 ~~for failure to submit any application or to pay any fee required by~~

1 ~~Section 34501.12 shall present proof of having submitted that~~
2 ~~application or have paid that fee to the Department of the California~~
3 ~~Highway Patrol before applying for reinstatement of its motor~~
4 ~~carrier permit.~~

5 (3)

6 (2) The department shall deposit all reinstatement fees collected
7 from motor carriers of property pursuant to this section in the fund.
8 Upon receipt of the fee, the department shall forward a request to
9 the Department of the California Highway Patrol, which shall
10 perform a reinspection within a reasonable time, or shall verify
11 receipt of the application or fee or both the application and fee.
12 Following the term of a suspension imposed under Section 34670,
13 the department shall reinstate a carrier's motor carrier permit
14 suspended under subdivision (b) upon notification by the
15 Department of the California Highway Patrol that the carrier's
16 safety compliance has improved to the satisfaction of the
17 Department of the California Highway Patrol, ~~or that the required~~
18 ~~application or fees have been received by the Department of the~~
19 ~~California Highway Patrol,~~ unless the permit is suspended for
20 another reason or has been revoked.

21 (f) Whenever the department suspends the permit of any carrier
22 pursuant to subdivision (b), (c), or paragraph (3) of subdivision
23 (i), the department shall furnish the carrier with written notice of
24 the suspension and shall provide for a hearing within a reasonable
25 time, not to exceed 21 days, after a written request is filed with
26 the department. At the hearing, the carrier shall show cause why
27 the suspension should not be continued. Following the hearing,
28 the department may terminate the suspension, continue the
29 suspension in effect, or revoke the permit. The department may
30 revoke the permit of any carrier suspended pursuant to subdivision
31 (b) at any time that is 90 days or more after its suspension if the
32 carrier has not filed a written request for a hearing with the
33 department or has failed to submit a request for reinstatement
34 pursuant to subdivision (e).

35 (g) Notwithstanding any other provision of this code, ~~no a~~
36 ~~hearing shall not be provided when if~~ the suspension of the motor
37 carrier permit is based solely upon the failure of the motor carrier
38 to maintain satisfactory proof of financial responsibility as required
39 by this code, ~~or failure of the motor carrier to submit an application~~
40 ~~or to pay fees required by Section 34501.12.~~

(h) A motor carrier of property may not operate a commercial motor vehicle on any public highway in this state during any period its motor carrier of property permit is suspended pursuant to this division.

(i) (1) A motor carrier of property whose motor carrier permit is suspended pursuant to this section or Section 34505.6, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe operating condition, may not lease, or otherwise allow, another motor carrier to operate the vehicles of the carrier subject to the suspension, during the period of the suspension.

(2) A motor carrier of property may not knowingly lease, operate, dispatch, or otherwise utilize any vehicle from a motor carrier of property whose motor carrier permit is suspended, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe operating condition.

(3) The department may immediately suspend the motor carrier permit of any motor carrier that the department determines to be in violation of paragraph (2).

SEC. 11. Section 40000.22 of the Vehicle Code is amended to read:

40000.22. (a) A violation of subdivision (e) of Section 34501, subdivision (f) (b) or (d) of Section 34501.12, or subdivision (c) of Section 34501.14, relating to applications for inspections, is a misdemeanor and not an infraction.

(b) A violation of Division 14.85 (commencing with Section 34600), relating to motor carriers of property, is a misdemeanor and not an infraction.

~~SECTION 1. Section 4755 of the Vehicle Code is amended to read:~~

~~4755. (a) The department shall refuse registration, or renewal or transfer of registration, for any commercial motor vehicle subject to Section 4000.6, if the owner or operator of the motor vehicle at the time of the application has been cited for a violation, pertaining to that vehicle, of Division 26 (commencing with Section 39000) of the Health and Safety Code or regulations of the State Air Resources Board adopted pursuant to that division, until the violation has been cleared, as determined by the State Air Resources Board.~~

1 ~~(b) (1) The department shall refuse registration for any~~
2 ~~commercial motor vehicle subject to Section 4000.6 that is of a~~
3 ~~1996 or older model year with a gross vehicle weight rating of~~
4 ~~more than 26,000 pounds.~~

5 ~~(2) Paragraph (1) does not apply to any construction truck for~~
6 ~~which the State Air Resources Board has issued an extension~~
7 ~~pursuant to its regulation to Reduce Emissions of Diesel Particulate~~
8 ~~Matter, Oxides of Nitrogen and Other Criteria Pollutants, from~~
9 ~~In-Use Heavy-Duty Diesel-Fueled Vehicles (Section 2025 of Title~~
10 ~~13 of the California Code of Regulations) and for which the owner~~
11 ~~presents sufficient evidence, as determined by the department, of~~
12 ~~this extension.~~

13 ~~(3) Paragraph (1) does not apply to a commercial motor vehicle~~
14 ~~registered in California prior to January 1, 2012, if the commercial~~
15 ~~motor vehicle is continuously registered pursuant to Section 9400.1~~
16 ~~or 9407 on and after January 1, 2012, or is certified nonoperational~~
17 ~~pursuant to Section 4604 after January 1, 2012.~~